

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

IN RE NEW MOTOR VEHICLES
CANADIAN EXPORT ANTITRUST
LITIGATION

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MDL DOCKET No. 1532

**ORDER ON JOINT MOTION TO AMEND ORDER TO
CERTIFY FOR INTERLOCUTORY APPELLATE REVIEW**

The motion of the defendants DaimlerChrysler Canada, Inc. and Mercedes-Benz Canada, Inc. is **GRANTED IN PART**¹ as follows.

My Order of March 4, 2004, is **AMENDED** to add the following two paragraphs:

A. This Order involves a controlling question of law as to which there is substantial ground for difference of opinion. Specifically, my conclusion that Clayton Act §12 permits worldwide service of process upon alien corporate defendants in antitrust cases is the subject of disagreement among the Circuits. The First Circuit has not addressed the issue. The other issues these defendants raise, however, do not meet that standard.

¹ I grant the motion only because I understand that a 28 U.S.C. § 1292(b) appeal does not stay proceedings in this court, see id., and because of these defendants' commitment that if their appeal is unsuccessful they will "accept the outcome of any rulings litigated in this matter . . . regardless of their participation (or lack thereof) in those proceedings." Mot. to Amend at 4. I intend to hold them to that commitment. But for that commitment, I would not grant the motion, for if they are unsuccessful on their appeal and can later relitigate matters resolved while they
(continued next page)

B. An immediate appeal from the Order of March 4, 2004, will not materially advance the ultimate termination of the complex multidistrict litigation now before this court. It may, however, materially advance its termination as to these two Canadian parties, because if they are successful on their appeal of this issue, the litigation will terminate as to them. I conclude that the latter eventuality satisfies the requirement of 28 U.S.C. § 1292(b).

So ORDERED.

DATED THIS 20TH OF APRIL, 2004.

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

are pressing their appeal, it would wreak havoc on the progress of this complex multidistrict proceeding.

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CIVIL DOCKET FOR CASE #: 2:03-MD-1532-DBH**

Liaison Counsel

For Plaintiffs

Robert S. Frank
Harvey & Frank
P.O. Box 126
Portland, ME 04112
(207) 775-1300

For Defendants

William J. Kayatta, Jr.
Pierce Atwood
One Monument Square
Portland, ME 04101-4033
(207) 791-1100

Plaintiffs' Executive Committee

Chair

Joseph J. Tabacco
Sharon T. Maier
R. Scott Palmer
Law Firm of Berman, DeValerio, Pease, Tabacco, Burt & Pucillo
425 California Street, Suite 2100
San Francisco, CA 94104
(415) 433-3200

Vice-Chair

Michael M. Buchman
Law Firm of Milberg, Weiss, Bershad, Hynes & Lerach, LLP
One Pennsylvania Plaza, 49th floor
New York, NY 10119-0165
(212) 594-5300

Additional Executive Committee Members

Bernard Persky
Hollis L. Salzman
Chris McDonald
Goodkind Labaton, Rudoff & Sucharow, LLP
100 Park Avenue, 12th floor
New York, NY 10017
(212) 907-0700

Robert J. LaRocca
William E. Hoese
Kohn, Swift & Graf, PC
One South Broad Street, Suite 2100
Philadelphia, PA 19107
(215) 238-1700

Patrick E. Cafferty
Jennifer Winter Sprengel
Miller, Faucher & Cafferty, LLP
30 North LaSalle Street, Suite 3200
Chicago, IL 60602
(312) 782-4880

H. Adam Prussin
Don Davis
Pomerantz, Haudek, Block, Grossman & Gross, LLP
100 Park Avenue, 26th floor
New York, NY 10017
(212) 661-1100

Samuel D. Heins
Alan I. Gilbert
Heins, Mills & Olsen, PLC
3550 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
(612) 338-4605

Stephen Lowey
Peter St. Phillip
Lowey, Dannenberg, Bemporad & Selinger, PC
The Gateway
One North Lexington Avenue
White Plains, NY 10601
(914) 997-0500

Robert S. Frank
Harvey & Frank
P.O. Box 126
Portland, ME 04112
(207) 775-1300